

Message Text

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ACTION EA-09

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FM AMEMBASSY KUALA LUMPUR

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E.O. 11652: N/A

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SUBJ: INDUSTRIAL COORDINATION ACT

REF: KUALA LUMPUR 2723

1. AFTER MORE THAN A YEAR OF NEGOTIATIONS BETWEEN THE GOM AND VARIOUS PRIVATE SECTOR REPRESENTATIVES, THE IMPLEMENTING REGULATIONS FOR THE INDUSTRIAL COORDINATION ACT (ICA) HAVE BEEN ISSUED AND THE ACT HAS GONE INTO EFFECT. A COPY OF THE REGULATIONS IS BEING POUCHED TO THE DEPARTMENT UNDER SEPARATE COVER. THE REGULATIONS DO NOT PROVIDE SUBSTANTIVE DEFINITION OF MAJOR QUESTIONS AND CONSIST ONLY OF THE AGREED-UPON EXEMPTION FOR FIRMS WITH A SHAREHOLDER'S FUND OF LESS THAN M\$250,000 AND LESS THAN 25 FULLTIME EMPLOYEES AND A NINE-PAGE LISTING OF THE INFORMATION REQUIRED IN THE APPLICATION. THE PRIVATE SECTOR FAILED COMPLETELY IN ITS EFFORTS TO HAVE ANUMBER OF ITS MAJOR CONCERNS ADDRESSED IN THE REGULATIONS. CHIEF AMONG THESE WERE: AN APPEALS MECHAMISM IN CASE OF REVOCATION OR NONISSUANCE OF A LICENSE; A CLEAR DELINEATION OF THE CONDITIONS UNDER WHICH A LICENSE WOULD BE ISSUED; AND PROTECTION AGAINST ABUSE OF THE SEARCH

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POWERS GRANTED THE MINISTRY OF TRADE AND INDUSTRY UNDER THE

ICA. THE PRIVATE SECTOR IS LEFT WITH THE COLD COMFORT OF RELYING ON A NUMBER OF VERBAL ASSURANCES FROM VARIOUS GOM OFFICIALS CONCERNING THESE ISSUES.

2. PREDICTABLY, THE PRIVATE SECTOR'S REACTION TO THE SPARSENESS OF THE REGULATIONS HAS BEEN NEGATIVE. THE THREE MAIN ASSOCIATIONS INVOLVED, THE MALAYSIAN CHINESE CHAMBER OF COMMERCE, THE FEDERATION OF MALAYSIAN MANUFACTURERS AND THE MALAYSIAN INTERNATIONAL CHAMBER OF COMMERCE HAVE PUBLICLY ADOPTED A WAIT-AND-SEE ATTITUDE AND HAVE PRIVATELY ADVISED THEIR MEMBERS TO DELAY SUBMITTING THEIR APPLICATIONS UNTIL A NUMBER OF POINTS HAVE BEEN CLARIFIED. CHIEF AMONG THESE IS A FULLER DESCRIPTION OF THE CONDITIONS TO BE MET IN OBTAINING A LICENSE --ESPECIALLY THOSE RELATING TO NEW ECONOMIC POLICY GOALS WITH REGARD TO EQUITY PARTICIPATION BY MALAYS.

3. IN THIS CONNECTION, THE CHIEF SECRETARY TO THE GOVERNMENT, ABDUL KHADIR BIN SHAMSUDDIN, IN A JOINT MEETING OF THE PRIVATE SECTOR CONSULTATIVE COMMITTEE (PSCC) - A GROUP CONSISTING OF REPRESENTATIVES FROM THE VARIOUS PRIVATE ASSOCIATIONS-AND THE NATIONAL PLANNING COMMITTEE, STATED THAT PRIVATE SECTOR CONCERNS RE THE NEW ECONOMIC POLICY OWNERSHIP GOALS "HAVE BEEN GIVEN FULL COVERAGE AND TREATMENT IN THE THIRD MALAYSIA PLAN IN ORDER TO CLEAR ANY EXISTING DOUBTS IN THE PRIVATE SECTOR". HE ALSO STATED THAT "A MORE CLEAR-CUT AND MUTUALLY ACCEPTABLE MEASUREMENT OF THE CONCEPT OF GROWTH WILL BE DEVELOPED BY THE FOREIGN INVESTMENT COMMITTEE (A GOM HIGH-LEVEL, INTER-MINISTERIAL COMMITTEE OVERSEEING FOREIGN INVESTMENT IN MALAYSIA) IN CONSULTATION WITH THE PRIVATE SECTOR".

4. COMMENT: THE PRINCIPAL REACTION TO THE REGULATIONS AMONG FOREIGN AND DOMESTIC MANUFACTURERS IN MALAYSIA, ESPECIALLY AMONG THE CHINESE, IS FRUSTRATION OVER THE UNWILLINGNESS OF THE GOM TO INCLUDE ANY MAJOR SAFEGUARDS IN THE IMPLEMENTING REGULATIONS DESPITE A YEAR'S TIME SPEND NEGOTIATING THIS ISSUE. CHINESE BUSINESSMEN ARE VOCAL IN CLAIMING THAT THE GOM'S ACTIONS HAVE CAUSED THEM TO REFRAIN FROM UNDERTAKING NEW INVESTMENTS IN MALAYSIA. WHILE THIS NO DOUBT ACCURATELY REFLECTS THEIR PRESENT MOOD, CAUTION SHOULD BE EXERCISED IN LIMITED OFFICIAL USE

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ASSUMING THAT THIS IS AN UNALTERABLE POSITION. THE TRUE TEST WILL COME AS THE MALAYSIAN ECONOMY CONTINUES ITS VIGOROUS EXPANSION. WITH DRAMATICALLY INCREASED PROFIT MARGINS AND A HEAVY BACKLOG OF ORDERS PREDICTED WITHIN A FEW MONTHS, IT IS AT LEAST ARGUABLE THAT THE CHINESE BUSINESS COMMUNITY WILL MOVE TO EXPAND THEIR OPERATIONS TO TAKE ADVANTAGE OF AN EXPANDING MARKET. THEY MAY MUTTER ABOUT GOM POLICIES ON THE WAY TO THE BANK, BUT IT IS DOUBTFUL

THAT THEY WILL AVOID A CHANCE TO GO AT ALL. ACCORDING TO WELL-INFORMED GOM SOURCES, THE TIMING FOR THIS TEST OF CHINESE INTRANSIGENCE WILL NOT COME UNTIL LATE THIS YEAR WHEN ECONOMIC FORECASTS INDICATE THAT DOMESTIC INVESTMENT SHOULD PICK UP TO MEET MARKET DEMAND. BY THEN, DOMESTIC INDUSTRY IS EXPECTED TO HAVE ALREADY UTILIZED EXISTING CAPACITY. THE RESULTS OF THIS REACTION (OR LACK THEREOF) WILL NOT BE KNOWN UNTIL LATE 1976 OR EARLY 1977. IF AT THAT TIME DOMESTIC INVESTMENT REMAINS FLAT, THE GOM WILL KNOW THAT IT HAS A MAJOR POLICY PROBLEM ON ITS HANDS. THE GOM IS BETTING THAT MARKET FORCES WILL OVERCOME FEARS OF THE GOVERNMENT'S INTENTIONS AND THAT DOMESTIC INVESTMENT WILL FLOW FORTH.
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